

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3977

IN THE MATTER OF:

Served July 23, 1992

Application of WASHINGTON EXPRESS,)
INC., Trading as NATION'S BUS & TOUR,)
for a Certificate of Authority --)
Irregular Route Operations)

Case No. AP-92-18

By application filed May 22, 1992, Washington Express, Inc., trading as Nation's Bus & Tour (NBT or applicant), a Maryland corporation, seeks a certificate of authority to transport passengers, together with baggage in the same vehicles as passengers, in irregular route operations between points in the Metropolitan District.

Notice of this application was served on May 27, 1992, in Order No. 3943, and NBT was directed to publish further notice in a newspaper and file an affidavit of publication. NBT complied. This application is unopposed.

SUMMARY OF EVIDENCE

NBT proposes to initiate operations using three leased vehicles, each having a manufacturer-designed seating capacity of 20-25 passengers. Applicant's proposed tariff contains hourly rates and transfer rates for charter operations.

NBT's application includes information regarding, among other things, its corporate status, facilities, vehicle maintenance arrangements, driver training practices, proposed tariff, finances, and regulatory compliance record.

NBT's president certifies on its behalf that it has access to, is familiar with, and will comply with the Compact, the Commission's rules and regulations, and United States Department of Transportation regulations relating to transportation of passengers for hire.

NBT filed a balance sheet as of April 1, 1992, showing assets of \$15,500; liabilities of \$12,500, and equity of \$3,000. NBT's projected income statement shows operating income of \$150,000; total expenses of \$143,700, and net income of \$6,300.

NBT states that its president, a majority shareholder, owns 50 percent of AM International Express, Inc. (AM), which holds Certificate of Authority No. 169. NBT says its president leases certain vehicles to AM. The Commission's files show that NBT's president entered into an agreement with AM on August 1, 1990, pursuant to which NBT's president leases a 1989, 15-passenger Dodge van to AM for \$550 per month. The Commission's files contain no other lease agreements between NBT's president and AM.

DISCUSSION AND CONCLUSION

This case is governed by the Compact, Title II, Article XI, Section 7(a) which provides in relevant part that:

. . . the Commission shall issue a certificate to any qualified applicant, . . . if it finds that--

(i) the applicant is fit, willing, and able to perform [the] transportation properly, conform to the provisions of this Act, and conform to the rules, regulations, and requirements of the Commission; and

(ii) that the transportation is consistent with the public interest.

Based on the evidence in this record, the Commission finds NBT to be fit, willing, and able to perform the proposed transportation properly and to conform with applicable regulatory requirements. It is further found that the proposed transportation is consistent with the public interest, provided that, first, certain conditions are satisfied relating to NBT's president's ownership of, and lease or leases with, AM.

Regarding the ownership condition, the Compact, Title II, Article XII, Section 3(a) provides that "any person controlling . . . a carrier shall obtain Commission approval to . . . acquire control of another carrier that operates in the Metropolitan District through ownership of its stock. . . ." NBT states that upon approval of this application, its president will "discontinue any and all managerial interest in AM" and "enter into negotiations with the other owner of AM . . . to terminate his interest in that carrier." The Commission agrees that NBT's president should divorce himself from AM before NBT commences operations. The approval granted herein shall be conditioned on NBT's president severing all managerial and ownership ties with AM and filing a notarized affidavit.

As for the leases, Commission Regulation No. 62 requires, with certain exceptions not applicable here, that before a carrier may operate a leased revenue vehicle, the lease must be filed with the Commission. The application seems to suggest that NBT's president currently leases more than one vehicle to AM. The Commission's files, on the other hand, contain but one lease, covering a single vehicle. As a condition to granting this application, the Commission will require NBT's president to file leases covering all revenue vehicles leased to AM and a notarized affidavit of compliance.

THEREFORE, IT IS ORDERED:

1. That Washington Express, Inc., trading as Nation's Bus & Tour, 12108 Heritage Park Circle, Silver Spring, MD 20906, is hereby conditionally granted, contingent upon timely compliance with the requirements of this order by applicant and its president, authority to transport passengers, together with baggage in the same vehicles as passengers, in irregular route operations between points in the Metropolitan District.

2. That Washington Express, Inc., trading as Nation's Bus & Tour, is hereby directed to file the following documents with the Commission within 30 days of the date of this order or such additional time as the Commission may direct or allow: (a) evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 3623; (b) four

copies of a tariff or tariffs in accordance with Regulation No. 55; (c) an equipment list stating the year, make, model, serial number, vehicle number, license plate number (with jurisdiction) and seating capacity of each vehicle to be used in revenue operations; (d) evidence of ownership or a lease as required by Commission Regulation No. 62 for each vehicle to be used in revenue operations, and (e) a notarized affidavit of identification of vehicles pursuant to Commission Regulation No. 61, for which purpose WMATC No. 211 is hereby assigned.

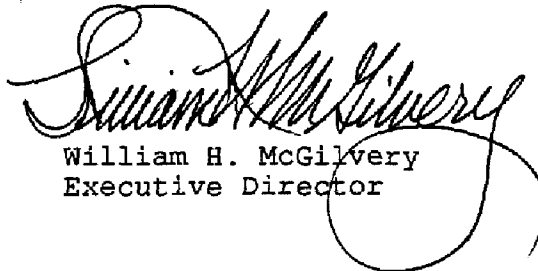
3. That the president of Washington Express, Inc., trading as Nation's Bus & Tour, is hereby directed to divest all holdings in, resign all positions of employment with, and file leases covering all revenue vehicles leased to AM International Express, Inc.

4. That the president of Washington Express, Inc., trading as Nation's Bus & Tour, is hereby directed to file within 30 days of the date of this order, or such additional time as the Commission may direct or allow, a notarized affidavit of compliance with the requirements of the previous paragraph.

5. That upon timely compliance with the requirements of this order by applicant and its president, and the Commission's acceptance of documents filed in response to this order, Certificate of Authority No. 211 shall be issued to Washington Express, Inc., trading as Nation's Bus & Tour.

6. That unless applicant and its president comply with the requirements of this order within 30 days from the date of issuance, or such additional time as the Commission may direct or allow, the grant of authority herein shall be void and the application shall stand denied in its entirety effective upon the expiration of said compliance time.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS DAVENPORT, SCHIFTER, AND SHANNON:



William H. McGilvery
Executive Director